

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36075 of 2014

In
Criminal Writ Jurisdiction Case No.667 of 2014

Arising Out of PS. Case No.- Year- Thana- District- Bhojpur

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Shankar Ram S/o Late Gulab Chand Ram, Ex-solder Resident of Village Behiyan, P.O. + P.S. Bihiya, District Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The District Magistrate, Bhojpur.
3. The Superintendent of Police, Bhojpur.
4. The Sub Divisional Police Officer, Jagdishpur.
5. The Sub Divisional Magistrate, Jagdishpur.
6. The Circle Officer, Bihiya, Bhojpur, Arra.
7. The Officer In-charge, Bihiya, Bhojpur, Arra.
8. The Officer In-charge (S.C./S.T.), Arra, P.S. Arra, Bhojpur.
9. Baban Mahto S/o Ramjanam Mahto
10. Nand Kishore Mahto S/o Baban Mahto
11. Meena Devi W/o Nand Kishore Mahto All are Resident of Village Behiyan, P.O. + P.S. Bihiya, District Bhojpur.

... .. Opposite Party/s

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Appearance :

For the Petitioner	:	Mr. Bharat Lal, Advocate
		Mr. Rabindra Kumar, Advocate
For the State	:	Mr. Arbind Kumar, APP
For O.P. Nos.9 to 11	:	Mr. Kumar Mritanjay Narain, Advocate

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL JUDGMENT
Date : 21-06-2018

Heard learned counsel for the parties.

2. This application has been preferred against the order dated 24.05.2014, passed by learned Sessions Judge, Bhojpur in Criminal Revision No.19 of 2014 whereby final order dated 26.11.2013, passed in a proceeding under Section 147 Cr.P.C. vide Case No.12 of 2007 in between the parties has decided the right of user of the land in question in favour of Shankar Ram.



3. Learned counsel appearing on behalf of the petitioner submits that already the right of user was decided in favour of the petitioner but the same was set aside by the impugned order without any reason..

4. Learned counsel appearing on behalf of opposite party nos.9 to 11 submits that the land on which the proceeding was initiated is the purchased land of the opposite party nos.9 to 11 and after purchase they erected a boundary wall over the piece of land, so they are aggrieved because their windows open in that direction and in the revisional order only the matter has been remanded back for considering afresh the matter after appointing the survey knowing Pleader Commissioner in order to ascertain actual configuration of the plot at the spot and admittedly the land is not used for the passage.

5. Having considered the rival submissions of both sides, the Court finds that initially a proceeding under Section 145 Cr.P.C. was initiated in between both sides and later on converted into a proceeding under Section 147 Cr.P.C. The case of Shankar Ram the first party in the court below is that he had purchased the land in the name of his wife and after construction of residential house residing there and in the southern direction had left set back of 5 feet in width and 33 feet long for personal use and for construction of a *Nali* or drainage and it is alleged that the said left over 5 feet wide and 33



feet long land has been encroached upon by Baban Mahto and others by erecting a wall over that piece of land. So the dispute between the parties appears to be relating to possession of the land in question as well as of title. It is also not clear from the order passed under Section 147 Cr.P.C. whether any ingress or outgress of the house leads through that particular piece of land. However, by the impugned order the revisional court has only remanded back the matter to the court below to decide afresh after getting a report from survey knowing Pleader Commissioner regarding present status of the land and thereafter to pass the appropriate order. The Court does not find any illegality in the order and it is in the interest of both the parties to get the matter resolved at the earliest.

6. The Court finds no illegality or irregularity with the impugned order, therefore, the quashing application stands dismissed and the S.D.M., Jagdishpur is directed to proceed in the matter and conclude the proceeding at the earliest.

(Arun Kumar, J)

S.KUMAR/-

AFR/NAFR	NAFR
CAV DATE	NA
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